

9 FAM 40.91

Certain aliens previously removed.

(TL:VISA-184; 01-22-1999)

(a) 5-year bar.

(TL:VISA-184; 01-22-1999)

An alien who has been found inadmissible, whether as a result of a summary determination of inadmissibility at the port of entry under INA 235(b)(1) or of a finding of inadmissibility resulting from proceedings under INA 240 initiated upon the alien's arrival in the United States, shall be ineligible for a visa under INA 212(a)(9)(A)(i) for 5 years following *such alien's first removal from the United States*.

[Added by 62 FR 67564, Dec. 29, 1997, amended by 63 FR 64627, Nov. 23, 1998.]

(b) 10-year bar.

(TL:VISA-177; 04-30-1998)

An alien who has otherwise been removed from the United States under any provision of law, or who departed while an order of removal was in effect, is ineligible for a visa under INA 212(a)(9)(A)(ii) for 10 years following such removal or departure from the United States.

[Added by 62 FR 67564, Dec. 29, 1997.]

(c) 20-year bar.

(TL:VISA-177; 04-30-1998)

An alien who has been removed from the United States two or more times shall be ineligible for a visa under INA 212(a)(9)(A)(i) or INA 212(a)(9)(A)(ii), as appropriate, for 20 years following the most recent such removal or departure.

[Added by 62 FR 67564, Dec. 29, 1997.]

(d) Permanent bar.

(TL:VISA-177; 04-30-1998)

If an alien who has been removed has also been convicted of an aggravated felony, the alien is permanently ineligible for a visa under INA 212(a)(9)(A)(i) or 212(a)(9)(A)(ii), as appropriate.

[Added by 62 FR 67564, Dec. 29, 1997.]

(e) Exceptions.

(TL:VISA-177; 04-30-1998)

An alien shall not be ineligible for a visa under INA 212(a)(9)(A)(i) or (ii) if prior to the alien's reembarkation at a place outside the United States the Attorney General has consented to the alien's application for admission.

[Added by 62 FR 67564, Dec. 29, 1997.]

9 FAM 40.91 Related Statutory Provisions

INA 212(a)(9) ALIENS PREVIOUSLY REMOVED.—

(TL:VISA-159; 12-20-96)

(A) CERTAIN ALIEN'S PREVIOUSLY REMOVED.

(i) **ARRIVING ALIENS.**—Any alien who has been ordered removed under section 235(b)(1) or at the end of proceedings under section 240 initiated upon the alien's arrival in the United States and who again seeks admission within 5 years of the date of such removal (or within 20 years in the case of a second or subsequent removal or at any time in the case of an alien convicted of an aggravated felony) is inadmissible.

(ii) **OTHER ALIENS.**—Any alien not described in clause (i) who—

(I) has been ordered removed under section 240 or any other provision of law, or

(II) departed the United States while an order of removal was outstanding, and who seeks admission within 10 years of the date of such alien's departure or removal (or within 20 years of such date in the case of a second or subsequent removal or at any time in the case of an alien convicted of an aggravated felony) is inadmissible.

(iii) **EXCEPTION.**—Clauses (i) and (ii) shall not apply to an alien seeking admission within a period if, prior to the date of the alien's reembarkation at a place outside the United States or attempt to be admitted from foreign contiguous territory, the Attorney General has consented to the alien's reapplying for admission.

[Amended by Sec. 301(b) of Pub. L. 104-208, Sept. 30, 1996.]